



Date of Council Meeting: November 9, 2015

**TOWN OF LEESBURG
TOWN COUNCIL WORK SESSION**

Information Memo

Subject: Predatory Towing

Staff Contact: Barbara Notar, Town Attorney

Council Action Requested: None. Information only.

Staff Recommendation: Not applicable.

Commission Recommendation: Not applicable.

Fiscal Impact: None.

Work Plan Impact: Not applicable.

Executive Summary: Town Council requested information on the issues surrounding predatory towing and whether there exist any allegations against the Town of Leesburg concerning predatory towing. No predatory towing laws have been adopted in Virginia, and no allegations against the Town have been made.

Background: “Predatory towing” is an arrangement whereby private towing companies use “spotters” to monitor where people park their vehicles, wait for them to leave and tow their vehicles as quickly as possible. The most common scenario arises when a person parks her vehicle in a private lot (i.e., a shopping center lot) and walks away to visit or shop at a location not affiliated with that shopping center. Spotters, usually hired or contracted by private towing companies, witness this and contact the towing company. The tow truck is usually waiting nearby, and, within minutes, tows that vehicle from the parking lot. Many complaints out of Arlington arose because vehicles were towed so quickly that a customer who realized he/she was not permitted to park in that location would have no opportunity to return and correct the violation.

Currently, there are no laws in Virginia banning this practice. In 2014, former U.S. Rep. Jim Moran (D. Va. 8) introduced a bill, the State and Local Predatory Towing Enforcement Act, solidifying states’ and local governments’ abilities to end predatory towing practices. Specifically, Rep. Moran proposed to amend U.S.C. 49 § 14501(c)(2)(C), which lays out federal authority over intrastate transportation. It restricts a state’s or locality’s authority to enact or enforce a law, regulation or other provision having the force and effect of law related to price, route or service of a motor carrier. Subsection (C), however, permits a state or political subdivision to enact or enforce a law relating to the *price* of for-hire motor

vehicle transportation by a tow truck, if without the consent or authorization of the owner or operator of the motor vehicle. In other words, states and localities are permitted to regulate towing prices only. Rep. Moran sought to amend that subsection by removing “price” and inserting “regulation of tow truck operations.” That bill died in the House of Representatives. In May 2015, U.S. Rep. Don Beyer (D. Va. 8) and U.S. Rep. Chris Van Hollen (D. Md. 8) reintroduced the State and Local Predatory Towing Enforcement Act with the hope that it will pass both Senate and House review.

Virginia Code § 46.2-1232 permits localities, by ordinance, to regulate the removal of trespassing vehicles from property by or at the direction of the owner, lessee, or authorized agent in charge of the property. And, Section 32-148 of the Town Code lists general rules for both the Town and private businesses, along with options in lieu of towing (collection of fees or immobilization by a boot or other similar device). Since there are no state laws banning predatory towing, there is no authority for localities to establish these laws. However, in reviewing the predatory practice, no laws are truly violated. In those instances as reported by newspapers and news channels, the vehicles towed are those violating a regulation posted on a sign. The problem lies in the fact that watchdogs or “spotters” watch for this violation and immediately contact the towing company rather than the business owner, and parking “violators” have no time to correct what usually turns out to be an innocent mistake.

Additionally, Captain Vanessa Grigsby reviewed the Police Department’s dispatch records and found no complaints. However, tow issues generally are civil in nature, so the Police Department may not be the place where people complain. The Town’s Public Information Officer, Betsy Arnett, conducted a search of the Town’s primary social media accounts (website, email, Twitter, Facebook), and could find no complaints regarding predatory towing.